

IN RE: PETITIONS FOR VARIANCE	* BEFORE THE
S/S Millers Island Blvd., 115' and	
165' E of the c/l of 8th Street	* ZONING COMMISSIONER
(9041 & 9043 Millers Island Blvd.)	
15th Election District	* OF BALTIMORE COUNTY
7th Councilmanic District	
	* Case Nos. 95-381-A and
Gerald W. and Shelley A. Ruth	95-382-A
Petitioners	*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as combined Petitions for Variance for the properties known as 9041 and 9043 Millers Island Boulevard, also known as Lots 323 and 324 of Swan Point, located in the vicinity of Hart/Miller Island and the Chesapeake Bay. The Petitions were filed by the owners of the property, Gerald W. Ruth and his wife, Shelley A. Ruth. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front lot width of 50 feet in lieu of the required 55 feet for both lots Lots 323 and 324 for a proposed dwelling. The subject property and relief sought are more particularly described on the site plans submitted and marked into evidence as Petitioner's Exhibits 1, respectively.

Appearing at the public hearing on behalf of the Petitions were Gerald and Shelley Ruth, property owners. There were no Protestants or other interested parties present.

Testimony and evidence offered by the Petitioners was that they own three adjacent lots on Millers Island Boulevard, including the two lots which are the subject of this combined hearing. The Petitioners acquired the three lots, known as Lots 323, 324 and 325 of Swan Point in December, 1994. The lots are located within the Chesapeake Bay Critical Areas across from Hart Island and are presently unimproved. The Petition-

ORDER RECORDED FOR FILING
 Date 6/9/95
 By [Signature]

MICROFILMED

ers are desirous of developing both Lots 323 and 324 with a two-story, single family dwelling of approximately 700 sq.ft. each, leaving Lot 325 unimproved. Testimony indicated that Swan Point is an old subdivision, apparently having been plotted and recorded in the Land Records of Baltimore County in 1927. The Petitioners testified that most all of the lots are laid out with 50-foot widths. The subject lots are 120 feet deep so that each lot is 6000 sq.ft. in area.

A reading of Section 304 of the B.C.Z.R. shows that same provides relief for property owners with undersized lots or lots of insufficient width. Specifically, that Section provides that a property owner can develop such a lot with a single family dwelling, if three criteria are satisfied. First, the property owner must show that such lot has been duly recorded, either by deed or in a validly approved subdivision, prior to March 30, 1955. Clearly, the subject lots meet this test. Secondly, all other requirements of the height and area regulations within the B.C.Z.R. must be met. Again, in this instance, the Petitioners have met this test in that no variances are requested. Third, Section 304 provides that the owner of the lot not own sufficient adjoining land to conform to the width and/or area requirements. In this case, the Petitioners do not satisfy this test. As noted above, they own the adjacent unimproved Lot 325. If the three lots were combined, they would contain the required lot widths and could be developed with two homesites. For this reason, relief under Section 304 of the B.C.Z.R. is not available to the Petitioners.

In that the sites cannot be developed as of right, the Petitioners request relief pursuant to the provisions of Section 307 of the B.C.Z.R. That Section empowers the Zoning Commissioner to grant variances from the strict application of height and area regulations. However, that Section

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Date

By

provides that in order for variance relief to be granted, the Petitioner must demonstrate that a practical difficulty would exist which justifies the requested relief. Moreover, the variance can only be granted if same is within strict harmony of the spirit and intent of the regulations so as not to cause detrimental impact to the surrounding locale. The Court of Special Appeals has recently discussed this regulation in Cromwell v. Ward, 102 Md. App. 691 (1995). Within its discussion, the Court reviewed the prior decisions of the Appellate Courts of this State, including McLean v. Solley, 270 Md. 208 (1973), a leading case.

In support of their request for variance, the Petitioners directly responded to a question asked of them by this Zoning Commissioner that financial considerations merited the request. Specifically, the Petitioners indicated that they felt a better financial return could be made if three homesites were developed on the lots as opposed to two. Although this is no doubt the case, financial considerations are not a sufficient reason to justify the variance. Economic return is not a basis on which to satisfy the practical difficulty test. The practical difficulty must provide a compelling reason for deviation from the zoning regulations. Mere matters of convenience or economics are not a proper basis.

Moreover, the fact that the properties were originally laid out in 1927 does not justify the relief requested. Although the lots were plotted many years ago, building must be in accordance with present regulations. Furthermore, the B.C.Z.R. within Section 304 thereof provide a property owner relief for old established undersized lots. For reasons set forth above, that relief is not available to this Petitioner. Thus, the the relief requested within the Petitions filed must be denied and I shall so Order.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 9, 1995

Mr. & Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: PETITIONS FOR VARIANCE
S/S Millers Island Blvd., 115' and 165' E of the c/l of 8th Street
(9041 & 9043 Millers Island Boulevard {Lots 323 & 324 of Swan Point})
15th Election District - 7th Councilmanic District
Case Nos. 95-381-A and 95-382-A
Gerald W. and Shelley A. Ruth - Petitioners

Dear Mr. & Mrs. Ruth:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM; People's Counsel

File

MICROFILMED





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9041 MILLERS ISLAND BLVD. LOT #323
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and 18021.370.1 is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

To permit a front lot width of 50 feet in lieu of the required 55 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- ① MOST EXISTING LOTS IN SUBDIVISION RECORDED AS 50' WIDE BUILDABLE LOTS
- ② PURCHASED WITH INTENTIONS OF HAVING TWO BUILDING LOTS W/SAME CHARACTERISTICS OF ADJACENT HOME SITES.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

GERALD W. RUTH
(Type or Print Name)

Signature

SHELLEY A. RUTH
(Type or Print Name)

Signature

8812 HINTON AVE. 477-1594
Address Phone No

BALTO. MD 21219
City State Zipcode
Name, Address and phone number of representative to be contacted.

GERALD RUTH
Name
8812 HINTON AVE. 477-1594
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: RTR DATE 4/20/95

ITEM# 376

Printed with Soybean Ink
on Recycled Paper

ORDER RECEIVED FOR FILING

Date

By

ZONING DESCRIPTION FOR LOT ~~322~~/ 9041 MILLERS ISLAND BLVD.

Beginning at a point on the south side of Millers Island Blvd. which is fifty feet wide at the distance of one hundred and fifteen feet east of the centerline of the intersection of Eight Street which is thirty feet wide. Being lot number 323, in the subdivision of Swan Point as recorded in Baltimore County Plat Book W.H.M. No. 9, folio 4 and 5; containing 6000 square feet. Also known as 9041 Millers Island Blvd. and located in the 15th Election District, 7th Councilmanic District.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

95-381-A

District 15th Date of Posting 5/15/95
Posted for: Variance
Petitioner: Gerald & Shelly Ruth
Location of property: 9041 Millers Isl Blvd
Location of Signs: Facing road way on property being zoned
Remarks: _____
Posted by M. J. Stealy Date of return: 5/19/95
Signature
Number of Signs: 1



CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-381-A
(Item 376)
9041 Millers Island Boulevard (Lot #323)
S/S Millers Island Avenue,
115' +/- E of c/l 8th Street
15th Election District
7th Councilmanic
Legal Owner(s):
Gerald W. Ruth and
Shelley A. Ruth
Hearing: Friday,
June 2, 1995 at 11:00
a.m. in Rm. 106, County Office Building.

Variance to permit a front lot width of 80 feet in lieu of the required 55 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the file and/or hearing, Please Call 887-3391.

5/071 May 4.

TOWSON, MD.,

5/5, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/4, 1995.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

Publisher



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

4/30/95

CRITICAL
AREA

receipt

95-381-A

Account: R-001-6150

Number 376

R.T.

GERALD RUTH

9041 MILLERS ISLAND BLVD

010 --- VARIANCE --- \$ 50⁰⁰

050 --- SIGN --- \$ 35⁰⁰

TOTAL --- \$ 85⁰⁰

RECEIVED

03A03H0083MICHRC

BA 0003#16PM04-21-95

\$85.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
 - 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
- NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 376

Petitioner: GERALD & SHELLEY RUTH

Location: 9041 MILLERS ISLAND BLVD.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: GERALD RUTH

ADDRESS: 8812 HINTON AVE.

BALTO. MD. 21219

PHONE NUMBER: 477-1594

AJ:ggs

(Revised 04/09/93)



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 28, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-381-A (Item 376)
9041 Millers Island Boulevard (Lot #323)
S/S Millers Island Avenue, 115' +/- E of c/l 8th Street
15th Election District - 7th Councilmanic
Legal Owner(s): Gerald W. Ruth and Shelley A. Ruth
HEARING: FRIDAY, JUNE 2, 1995 at 11:00 a.m. in Room 106, County Office Building.

Variance to permit a front lot width of 50 feet in lieu of the required 55 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Gerald and Shelly Ruth

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

RECEIVED



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 24, 1995

Mr. and Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: Item No.: 376
Case No.: 95-381-A
Petitioner: G. W. Ruth, et ux

Dear Mr. and Mrs. Ruth:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 20, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: 9041 & 9043 Millers Island Blvd.

INFORMATION:

Item Number: 376 & 377

Petitioner: Ruth Property

Property Size:

Zoning: DR-5.5

Requested Action: Variance

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

These requests do not comply with Section 304.1C of the Baltimore County Zoning Regulations and; therefore, should be denied.

Prepared by:


Division Chief:

PK/JL

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BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM:  Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 8, 1995
Item No. 376

The Developers Engineering Section has reviewed the subject zoning item. This site is located in a 100-year tidal flood plain. The lowest floor of any building must be elevated 1 foot above the 100-year frequency tidal elevation as defined by the Federal Emergency Management Agency, Flood Insurance Administration's Flood Insurance Study.

RWB:sw

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director May 22, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #376 - Ruth Property
9041 Millers Island Blvd.
Zoning Advisory Committee Meeting of May 1, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with Chesapeake Bay Critical Area Regulations by meeting the following conditions:

A non-tidal wetland exists on or near the property line on the western border. A minimum 25 foot buffer is required from the outer edge of this non-tidal wetland, thus making this lot undevelopable without approval of a Critical Area Administrative Variance.

/
JLP:KK:sp

c: Gerald W. Ruth

RUTH/DEPRM/TXTSBP



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary

Hal Kassoff
Administrator

5-2-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 376 (RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

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Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367,
369, 370, 371, 372, 373, 375, 376 and 377.

RECEIVED
MAY 8 1995
ZADM

REVIEWER: LT. ROBERT P. SQUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

95-381-A
95-382-A

TO: Lawrence Schmidt
Zoning Commissioner

FROM: J. Lawrence Pilson, DEPRM

SUBJECT: Zoning Items #376 and #377
Ruth Property
9041 and 9043 Millers Island Boulevard

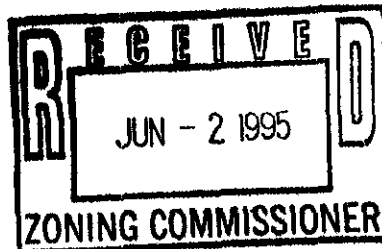
DATE: June 1, 1995

Attached is a revised comment from Mr. Keith Kelley in which he wishes to eliminate the original comment stating that there were non-tidal wetlands on or near the site.

JLP:sp

Attachment

SCHMIDT/DEPRM/TXTSBP



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

95-381-A
9
95-382-A

TO: Mr. J. Lawrence Pilson
Development Coordination

DATE: June 1, 1995

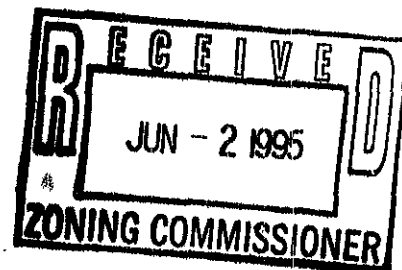
FROM: Mr. Keith D. Kelley KK
Environmental Impact Review

SUBJECT: Zoning Items #376 and #377
Ruth Property
9041 and 9043 Millers Island Boulevard

Upon receiving additional information on the above referenced property, I would like to rescind my comment of May 22, 1995 about the existence of non-tidal wetlands on or near the property line. A reinspection on June 1, 1995 revealed that the two (2) lots are "high and dry". The only comment that I have is that impervious surfaces are limited to 25% of each lot (or 1,500 square feet).

KDK/tmm

RUTH/DEPRM/WQBCBA



PETITION PROBLEMS AGENDA OF MAY 1, 1995

#363 --- RT

1. No signature for contract purchaser.

#366 --- MJK

1. Need authorization for person signing for legal owner.
2. Need authorization for person signing for contract purchaser.
3. Why isn't "Franklin Avenue" (property location) mentioned in the description?

#367 --- JCM

1. Folder not marked critical.

#372 --- RT

1. Only one legal owner signature on back of petition form.

#376 --- RT

1. Folder not marked critical.

#377 --- RT

1. Folder not marked critical.

RE: PETITION FOR VARIANCE	*	BEFORE THE
9041 Millers Island Boulevard (Lot #323),		
S/S Millers Island Avenue, 115'+/- E of	*	ZONING COMMISSIONER
c/l 8th Street, 15th Election District,		
7th Councilmanic	*	OF BALTIMORE COUNTY
Gerald W. and Shelley A. Ruth	*	CASE NO. 95-381-A
Petitioners		
* * * * * * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S. Demilio

 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to Gerald W. and Shelley A. Ruth, 8812 Hinton Avenue, Baltimore, MD 21219, Petitioners.

Peter Max Zimmerman

 PETER MAX ZIMMERMAN

WIK:PROJILMEN

Property address: 9041 Millers Island Blvd.
Subdivision name: Swan Point
plat book: W.H.M. No. 9 folio: 76

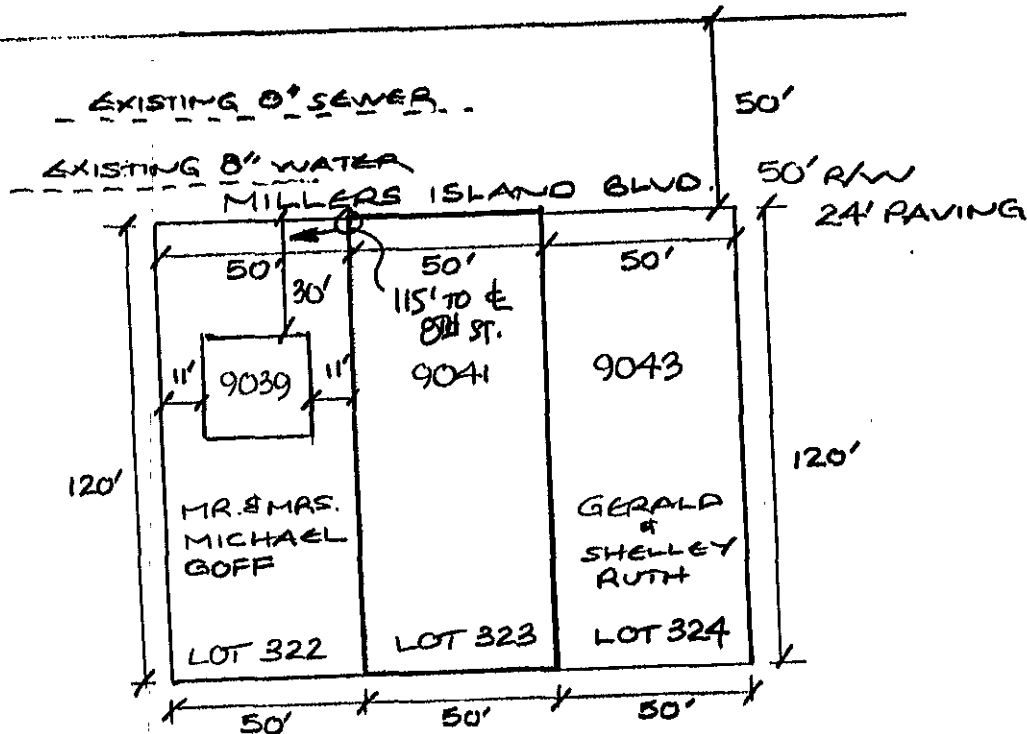
Owner: Mr. and Mrs. Gerald Ruth
Date: April 21, 1995
Scale: 1"=20'

Councilmatic District: 7
Election District: 15
1"=200' scale map: SE-7K
Zoning: DR. 5.5

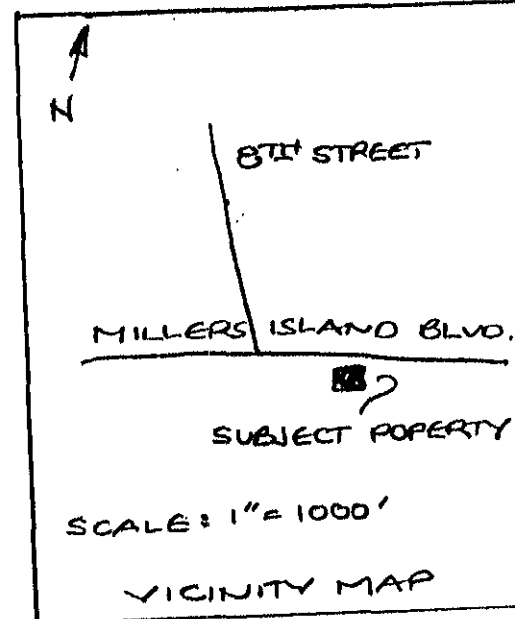
Lot size: 6000 sq. ft./ .138 acres
Public sewer and water exists
Lot lies in Chesapeake Bay Critical Area
No prior zoning hearings

Zoning Office 'Use ONLY! .		
reviewed by	item #	case #

95-381-A



SCALE: 1" = 50'



ITEM # 376

IN RE: PETITIONS FOR VARIANCE * BEFORE THE
S/S Millers Island Blvd.. 115' and
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(9041 & 9043 Millers Island Blvd.)
15th Election District * OF BALTIMORE COUNTY
7th Councilmanic District
Gerald W. and Shelley A. Ruth * Case Nos. 95-381-A and
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* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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ORDER RECEIVED FOR FILING

Date 6/9/95

By [Signature]

MICROFILMED

ers are desirous of developing both Lots 323 and 324 with a two-story, single family dwelling of approximately 700 sq.ft. each, leaving Lot 325 unimproved. Testimony indicated that Swan Point is an old subdivision, apparently having been plotted and recorded in the Land Records of Baltimore County in 1927. The Petitioners testified that most all of the lots are laid out with 50-foot widths. The subject lots are 120 feet deep so that each lot is 6000 sq.ft. in area.

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provides that in order for variance relief to be granted, the Petitioner must demonstrate that a practical difficulty would exist which justifies the requested relief. Moreover, the variance can only be granted if same is within strict harmony of the spirit and intent of the regulations so as not to cause detrimental impact to the surrounding locale. The Court of Special Appeals has recently discussed this regulation in Cromwell v. Ward, 102 Md. App. 691 (1995). Within its discussion, the Court reviewed the prior decisions of the Appellate Courts of this State, including McLean v. Solley, 270 Md. 208 (1973), a leading case.

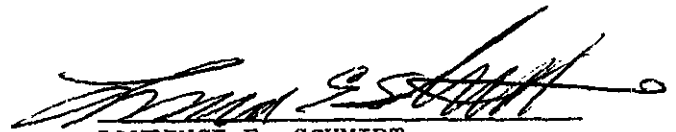
In support of their request for variance, the Petitioners directly responded to a question asked of them by this Zoning Commissioner that financial considerations merited the request. Specifically, the Petitioners indicated that they felt a better financial return could be made if three homesites were developed on the lots as opposed to two. Although this is no doubt the case, financial considerations are not a sufficient reason to justify the variance. Economic return is not a basis on which to satisfy the practical difficulty test. The practical difficulty must provide a compelling reason for deviation from the zoning regulations. Mere matters of convenience or economics are not a proper basis.

Moreover, the fact that the properties were originally laid out in 1927 does not justify the relief requested. Although the lots were plotted many years ago, building must be in accordance with present regulations. Furthermore, the B.C.Z.R. within Section 304 thereof provide a property owner relief for old established undersized lots. For reasons set forth above, that relief is not available to this Petitioner. Thus, the the relief requested within the Petitions filed must be denied and I shall so Order.

ORDER RECEIVED FOR FILING
Date 6/9/95
By [Signature]

Pursuant to the advertisement, posting of the property, and public hearing held thereon and for the reasons set forth above, the Petitions for Variance filed in the above-captioned matters must be denied.

THEREFORE IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of June, 1995 that the Petitions for Variance filed in Case Nos. 95-381-A and 95-382-A seeking relief from Section 1B02.3.C.1 of the B.C.Z.R. to permit a front lot width of 50 feet in lieu of the required 55 feet for both Lots 323 and 324 of Swan Point, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 9, 1995

Mr. & Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: PETITIONS FOR VARIANCE
S/S Millers Island Blvd., 115' and 165' E of the c/l of 8th Street
(9041 & 9043 Millers Island Boulevard {Lots 323 & 324 of Swan Point})
15th Election District - 7th Councilmanic District
Case Nos. 95-381-A and 95-382-A
Gerald W. and Shelley A. Ruth - Petitioners

Dear Mr. & Mrs. Ruth:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM; People's Counsel

✓ File

WICKED BITE





Petition for Variance

75-382-A
to the Zoning Commissioner of Baltimore County

for the property located at 9043 MILLERS ISLAND BLVD. LOT # 324
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.5.C.1

To permit a front lot width of 50 feet in lieu of the required 55 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

- ① MOST EXISTING LOTS IN SUBDIVISION RECORDED AS 50' WIDE BUILDABLE LOTS.
- ② PURCHASED WITH INTENTIONS OF HAVING TWO BUILDING LOTS W/ SAME CHARACTERISTICS OF ADJACENT HOME SITES.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

GERALD W. RUTH
(Type or Print Name)

Gerald W. Ruth
Signature

SHELLEY A. RUTH
(Type or Print Name)

Shelley A. Ruth
Signature

8812 HINTON AVE. 477-1504
Address Phone No.

BALTO. MD 21219
City State Zipcode
Name, Address and phone number of representative to be contacted.

GERALD RUTH
Name

8812 HINTON AVE. 477-1504
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: R.T. DATE 4/20/95

ITEM # 377



Printed with Soybean Ink
on Recycled Paper

ORDER RECEIVED FOR FILING

Date

95-382-A

ZONING DESCRIPTION FOR LOT 324/ ~~9043~~ MILLERS ISLAND BLVD.

Beginning at a point on the south side of Millers Island Blvd. which is fifty feet wide at the distance of one hundred and sixty five feet east of the centerline of the intersection of Eight Street which is thirty feet wide. Being lot number 324, in the subdivision of Swan Point as recorded in Baltimore County Plat Book W.H.M. No. 9, folio 4 and 5; containing 6000 square feet. Also known as 9043 Millers Island Blvd. and located in the 15th Election District, 7th Councilmanic District.

ITEM #377

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-380-A

District 150A

Date of Posting 5/10/95

Posted for: Variance

Petitioner: Gerald + Shelly Ruth

Location of property: 9043 Millers Fork Blvd

Location of Signs: Facing road & work on property being zoned

Remarks: _____

Posted by [Signature]

Signature

Date of return: 5/19/95

Number of Signs: 1



CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-382-A
(Item 377)

9043 Millers Island Boulevard (Lot #324)
S/S Millers Island Avenue,
165' +/- E of c/l 8th Street
15th Election District
7th Councilmanic
Legal Owner(s):

Gerald W. Ruth and
Shelley A. Ruth
Hearing: Friday,
June 2, 1995 at 11:00
a.m. in Rm. 106, County Office Building.

Variance to permit a front lot width of 50 feet in lieu of the required 66 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

5/072 May 4.

TOWSON, MD.,

5/5

, 19 95

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/4, 19 95.

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

~~Publisher~~



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-382-A

CRITICAL
AREA

Account: R-001-6150

Number 377

R.T.

Date

4/20/95

GERALD RUTH

9043 MILLER'S ISLAND BLVD,

010 — VARIANCE — \$ 50.00

080 — SIGN — \$ 35.00

TOTAL — \$ 85.00

RECEIVED

03A03#0082MICHC

BA C003:16PM04-21-95

\$85.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
 - 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
- NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.:

377 & 376

Petitioner:

GERARD & STEVEN RUTH

Location:

9043 MILLERS ISLAND BLVD.

PLEASE FORWARD ADVERTISING BILL TO:

NAME:

GERARD RUTH

ADDRESS:

8812 HINTON AVE.

BALTO. MD. 21219

PHONE NUMBER:

477-1594

AJ:ggg

MICROFILM

(Revised 04/09/93)



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 28, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-382-A (Item 377)
9043 Millers Island Boulevard (Lot #324)
S/S Millers Island Avenue, 165'+/- E of c/l 8th Street
15th Election District - 7th Councilmanic
Legal Owner(s): Gerald W. Ruth and Shelley A. Ruth
HEARING: FRIDAY, JUNE 2, 1995 at 11:00 a.m. in Room 106, County Office Building.

Variance to permit a front lot width of 50 feet in lieu of the required 55 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Gerald and Shelley Ruth

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 24, 1995

Mr. and Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: Item No.: 377
Case No.: 95-382-A
Petitioner: G. W. Ruth, et ux

Dear Mr. and Mrs. Ruth:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 20, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over the word "Sincerely,".

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: 9041 & 9043 Millers Island Blvd.

INFORMATION:

Item Number: 376 & (377)
Petitioner: Ruth Property
Property Size: _____
Zoning: DR-5.5
Requested Action: Variance
Hearing Date: ____/____/____

SUMMARY OF RECOMMENDATIONS:

These requests do not comply with Section 304.1C of the Baltimore County Zoning Regulations and; therefore, should be denied.

Prepared by: Jeffrey W. Long

Division Chief: Erin L. Kins

PK/JL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director May 22, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #377 - Ruth Property
9043 Millers Island Blvd.
Zoning Advisory Committee Meeting of May 1, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with Chesapeake Bay Critical Area Regulations by meeting the following conditions:

1. A non-tidal wetland exists on or near the property line on the western border of lot #323 (#9041 Millers Island Blvd.) A minimum 25 foot buffer is required from the outer edge of this wetland.
2. Impervious surfaces are limited to 25% of the lot (or 1500 square feet).


✓
JLP:KK:sp

c: Gerald W. Ruth

RUTH2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM:  Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 8, 1995
Item No. 377

The Developers Engineering Section has reviewed the subject zoning item. This site is located in a 100-year tidal flood plain. The lowest floor of any building must be elevated 1 foot above the 100-year frequency tidal elevation as defined by the Federal Emergency Management Agency, Flood Insurance Administration's Flood Insurance Study.

RWB:sw



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary

Hal Kassoff
Administrator

5-2-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 377 (RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367,
369, 370, 371, 372, 373, 374, 375, 376 and 377.

REVIEWER: LT. ROBERT F. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED



PETITION PROBLEMS AGENDA OF MAY 1, 1995

#363 --- RT

1. No signature for contract purchaser.

#366 --- MJK

1. Need authorization for person signing for legal owner.
2. Need authorization for person signing for contract purchaser.
3. Why isn't "Franklin Avenue" (property location) mentioned in the description?

#367 --- JCM

1. Folder not marked critical.

#372 --- RT

1. Only one legal owner signature on back of petition form.

#376 --- RT

1. Folder not marked critical.

#377 --- RT

1. Folder not marked critical.

RE: PETITION FOR VARIANCE
9043 Millers Island Boulevard (Lot #324),
S/S Millers Island Avenue, 165'+/- E of
c/l 8th Street, 15th Election District,
7th Councilmanic

Gerald W. and Shelley A. Ruth
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* CASE NO. 95-382-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO

Deputy People's Counsel

Room 47, Courthouse

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to Gerald W. and Shelley A. Ruth, 8812 Hinton Avenue, Baltimore, MD 21219, Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

10/10/95

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

Property address: 9043 Millers Island Blvd.
 Subdivision name: Swan Point
 plat book: W.H.M. No. 9 folio: 76

Owner: Mr. and Mrs. Gerald Ruth
 Date: April 21, 1995
 Scale: 1"=20'

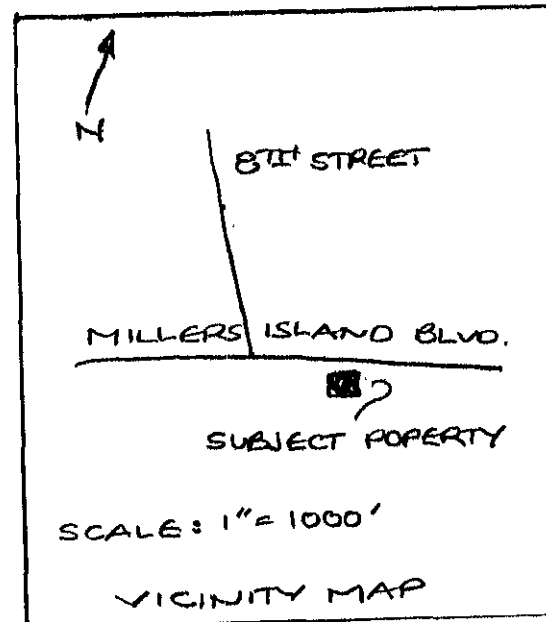
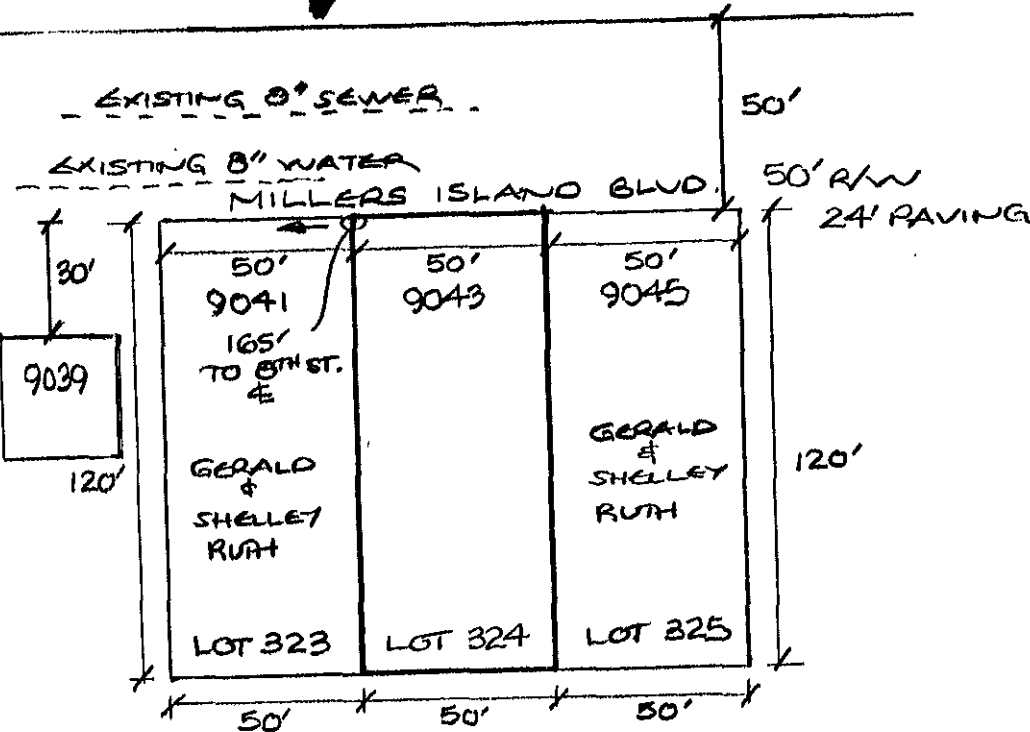
Zoning Office Use ONLY!

reviewed by	item #	case #

Location Information

Councilmatic District: 7 Lot size: 6000 sq. ft./ .138 acres
 Election District: 15 Public sewer and water exists
 1'=200' scale map: 9E7-K Lot lies in Chesapeake Bay Critical Area
 Zoning: DR. 5.5 No prior zoning hearings

95-382-A



SCALE: 1"=50'

ITEM #377

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1991 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
On: 12/19/91

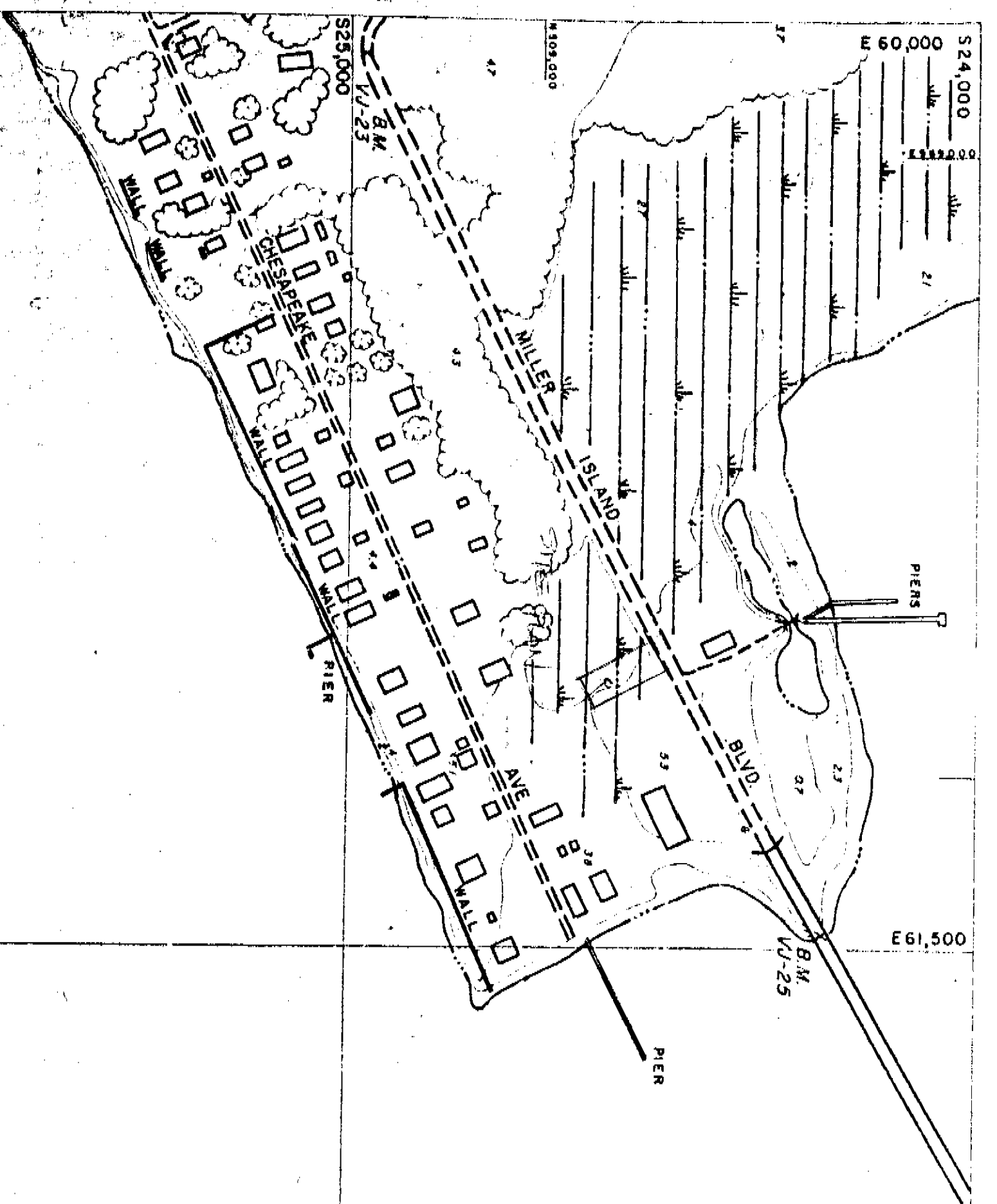
SCALE 1" = 1000'	LOCATION EAST ISLAND	SHEET SE
CITY OF POTOMAC 1500'	1500'	1500'

CHESAPEAKE

BAY

95-382-A

CRAIGMILL
NEAR RANGE
LIGHT



CHESAPEAKE

BAY

95-382-A

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE			
		1" = 200'	HART ISLAND	S.E. 7-K
		DATE OF PHOTOGRAPHY	172-11-27-77	
		DEC. 1954		

Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP. LANSING MICH.

MICROFILMED

IN RE: PETITIONS FOR VARIANCE * BEFORE THE
S/S Millers Island Blvd., 115' and * ZONING COMMISSIONER
165' E of the c/l of 8th Street (9041 & 9043 Millers Island Blvd.) * OF BALTIMORE COUNTY
15th Election District
7th Councilmanic District * Case Nos. 95-381-A and 95-382-A
Gerald W. and Shelley A. Ruth *
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as combined Petitions for Variance for the properties known as 9041 and 9043 Millers Island Boulevard, also known as Lots 323 and 324 of Swan Point, located in the vicinity of Hart/Millers Island and the Chesapeake Bay. The Petitions were filed by the owners of the property, Gerald W. Ruth and his wife, Shelley A. Ruth. The Petitioners seek relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front lot width of 50 feet in lieu of the required 55 feet for both lots 323 and 324 for a proposed dwelling. The subject property and relief sought are more particularly described on the site plans submitted and marked into evidence as Petitioner's Exhibits 1, respectively.

Appearing at the public hearing on behalf of the Petitions were Gerald and Shelley Ruth, property owners. There were no Protestants or other interested parties present.

Testimony and evidence offered by the Petitioners was that they own three adjacent lots on Millers Island Boulevard, including the two lots which are the subject of this combined hearing. The Petitioners acquired the three lots, known as Lots 323, 324 and 325 of Swan Point in December, 1994. The lots are located within the Chesapeake Bay Critical Areas across from Hart Island and are presently unimproved. The Petition-

ers are desirous of developing both Lots 323 and 324 with a two-story, single family dwelling of approximately 700 sq.ft. each, leaving Lot 325 unimproved. Testimony indicated that Swan Point is an old subdivision, apparently having been platted and recorded in the Land Records of Baltimore County in 1927. The Petitioners testified that most all of the lots are laid out with 50-foot widths. The subject lots are 120 feet deep so that each lot is 6000 sq.ft. in area.

A reading of Section 304 of the B.C.Z.R. shows that same provides relief for property owners with undersized lots or lots of insufficient width. Specifically, that Section provides that a property owner can develop such a lot with a single family dwelling, if three criteria are satisfied. First, the property owner must show that such lot has been duly recorded, either by deed or in a validly approved subdivision, prior to March 30, 1955. Clearly, the subject lots meet this test. Secondly, all other requirements of the height and area regulations within the B.C.Z.R. must be met. Again, in this instance, the Petitioners have met this test in that no variances are requested. Third, Section 304 provides that the owner of the lot not own sufficient adjoining land to conform to the width and/or area requirements. In this case, the Petitioners do not satisfy this test. As noted above, they own the adjacent unimproved Lot 325. If the three lots were combined, they would contain the required lot widths and could be developed with two homesites. For this reason, relief under Section 304 of the B.C.Z.R. is not available to the Petitioners.

In that the sites cannot be developed as of right, the Petitioners request relief pursuant to the provisions of Section 307 of the B.C.Z.R. That Section empowers the Zoning Commissioner to grant variances from the strict application of height and area regulations. However, that Section

provides that in order for variance relief to be granted, the Petitioner must demonstrate that a practical difficulty would exist which justifies the requested relief. Moreover, the variance can only be granted if same is within strict harmony of the spirit and intent of the regulations so as not to cause detrimental impact to the surrounding locale. The Court of Special Appeals has recently discussed this regulation in Cromwell v. Ward, 102 Md. App. 691 (1995). Within its discussion, the Court reviewed the prior decisions of the Appellate Courts of this State, including McLean v. Solley, 270 Md. 208 (1973), a leading case.

In support of their request for variance, the Petitioners directly responded to a question asked of them by this Zoning Commissioner that financial considerations merited the request. Specifically, the Petitioners indicated that they felt a better financial return could be made if three homesites were developed on the lots as opposed to two. Although this is no doubt the case, financial considerations are not a sufficient reason to justify the variance. Economic return is not a basis on which to satisfy the practical difficulty test. The practical difficulty must provide a compelling reason for deviation from the zoning regulations. Mere matters of convenience or economics are not a proper basis.

Moreover, the fact that the properties were originally laid out in 1927 does not justify the relief requested. Although the lots were platted many years ago, building must be in accordance with present regulations. Furthermore, the B.C.Z.R. within Section 304 thereof provide a property owner relief for old established undersized lots. For reasons set forth above, that relief is not available to this Petitioner. Thus, the relief requested within the Petitions filed must be denied and I shall so Order.

Pursuant to the advertisement, posting of the property, and public hearing held thereon and for the reasons set forth above, the Petitions for Variance filed in the above-captioned matters must be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of June, 1995 that the Petitions for Variance filed in Case Nos. 95-381-A and 95-382-A seeking relief from Section 1802.3.C.1 of the B.C.Z.R. to permit a front lot width of 50 feet in lieu of the required 55 feet for both Lots 323 and 324 of Swan Point, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING

Date 6/1/95
By [Signature]

ORDER RECEIVED FOR FILING

Date 6/1/95
By [Signature]

ORDER RECEIVED FOR FILING

Date 6/1/95
By [Signature]

ORDER RECEIVED FOR FILING

Date 6/1/95
By [Signature]

- 2 -

- 3 -

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 9, 1995

Mr. & Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: PETITIONS FOR VARIANCE
S/S Millers Island Blvd., 115' and 165' E of the c/l of 8th Street
(9041 & 9043 Millers Island Boulevard (Lots 323 & 324 of Swan Point))
15th Election District - 7th Councilmanic District
Case Nos. 95-381-A and 95-382-A
Gerald W. and Shelley A. Ruth - Petitioners

Dear Mr. & Mrs. Ruth:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM; People's Counsel

file



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 0043 MILLERS ISLAND BLVD. LOT # 324
which is presently zoned DR55

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and hereby petition for a Variance from the provisions of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

To permit a front lot width of 50 feet in lieu of the required 55 feet.

- ① MOST EXISTING LOTS IN SUBDIVISION RECORDED AS 30' WIDE BUILDABLE LOTS.
- ② PURCHASED WITH INTENTIONS OF HAVING TWO BUILDING LOTS W/ SAME CHARACTERISTICS OF ADJACENT HOME SITES.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Agency for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

Write on extremely durable and often, under the provisions of delivery, that have are the legal owners of the property which is the subject of this Petition.

Legal Owner(s)

GERALD W. RUTH

SHELLEY A. RUTH

SHIRLEY S. RUTH

8812 HINTON AVE. 411-1594

BALTO. MD 21219

GERALD RUTH

8812 HINTON AVE. 411-1594

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

the following date

RECEIVED BY: RUC DATE: 6/20/95

ITEM # 377

ZONING DESCRIPTION FOR LOT 324/ MILLERS ISLAND BLVD.

Beginning at a point on the south side of Millers Island Blvd. which is fifty feet wide at the distance of one hundred and sixty five feet east of the centerline of the intersection of Eight Street which is thirty feet wide. Being lot number 324, in the subdivision of Swan Point as recorded in Baltimore County Plat Book W.H.M. No. 9, folio 4 and 5; containing 6000 square feet. Also known as 9043 Millers Island Blvd. and located in the 15th Election District, 7th Councilmanic District.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 6/10/95
Posted for: Variance
Petitioner: Gerald W. & Shelley A. Ruth
Location of property: 9043 Millers Island Blvd.
Location of Signs: Posting 2nd floor, 2nd property, 2nd floor, 2nd floor
Remarks:
Posted by: [Signature] Date of return: 6/19/95
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 5/15, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/14, 1995.

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

5/14/95

Lawrence E. Schmidt
Zoning Commissioner
for Baltimore County

receipt
75-382-A

CRITICAL AREA

Date: 4/24/95
GERALD RUTH
9043 MILLERS ISLAND BLVD.

CID - VARIANCE - \$50.00
CSO - SIGN - \$35.00
TOTAL - \$85.00

Account: 8-001-6190
Number: 377
R.T.

0306580082MICHRO
86 000315P04-21-95

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon, Director

For newspaper advertising:
Item No.: 377 \$37.00
Petitioner: GERALD & SHELLEY RUTH
Location: 9043 MILLERS ISLAND BLVD.

PLEASE FORWARD ADVERTISING BILL TO:
NAME: GERALD RUTH
ADDRESS: 8812 HINTON AVE.
BALTO MD 21219
PHONE NUMBER: 477-1594

Adj:ggg (Revised 04/09/93)

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

April 28, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-382-A (Item 377)
9043 MILLERS ISLAND BOULEVARD (Lot #324)
S/S MILLERS ISLAND AVENUE, 165' +/- E of c/1 8th Street
15th Election District - 7th Councilmember
Legal Owner(s): Gerald W. Ruth and Shelley A. Ruth
HEARING: FRIDAY, JUNE 2, 1995 at 11:00 a.m. in Room 106, County Office Building.

Variance to permit a front lot width of 50 feet in lieu of the required 55 feet.

Arnold Jablon, Director

cc: Gerald and Shelley Ruth

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE AVAILABLE ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-1353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

May 24, 1995

Mr. and Mrs. Gerald W. Ruth
8812 Hinton Avenue
Baltimore, Maryland 21219

RE: Item No.: 377
Case No.: 95-382-A
Petitioner: G. W. Ruth, et ux

Dear Mr. and Mrs. Ruth:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 20, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: 9041 & 9043 Millers Island Blvd.

INFORMATION:

Item Number: 376 & 377
Petitioner: Ruth Property
Property Size: DR-5.5
Zoning: DR-5.5
Requested Action: Variance
Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:

These requests do not comply with Section 304.1C of the Baltimore County Zoning Regulations and; therefore, should be denied.

Prepared by: Jeffrey M. Long
Division Chief: Gary L. Kline
PK/JL

ITEM376/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management May 22, 1995

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #377 - Ruth Property
9043 Millers Island Blvd.
Zoning Advisory Committee Meeting of May 1, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with Chesapeake Bay Critical Area Regulations by meeting the following conditions:

1. A non-tidal wetland exists on or near the property line on the western border of lot #323 (#9041 Millers Island Blvd.) A minimum 25 foot buffer is required from the outer edge of this wetland.
2. Impervious surfaces are limited to 25% of the lot (or 1500 square feet).

JLP:KK:sp

c: Gerald W. Ruth
RUTH2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 2, 1995
Item No. 377

The Developers Engineering Section has reviewed the subject zoning item. This site is located in a 100-year tidal flood plain. The lowest floor of any building must be elevated 1 foot above the 100-year frequency tidal elevation as defined by the Federal Emergency Management Agency. Flood Insurance Administration's Flood Insurance Study.

BWB:ew

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-2-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 377 (KT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367, 369, 370, 371, 372, 373, 375, 376 and 377.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

PETITION PROBLEMS
AGENDA OF MAY 1, 1995

#363 -- RT

1. No signature for contract purchaser.

#366 -- MJK

1. Need authorization for person signing for legal owner.
2. Need authorization for person signing for contract purchaser.
3. Why isn't "Franklin Avenue" (property location) mentioned in the description?

#367 -- JCM

1. Folder not marked critical.

#372 -- RT

1. Only one legal owner signature on back of petition form.

#376 -- RT

1. Folder not marked critical.

#377 -- RT

1. Folder not marked critical.

RE: PETITION FOR VARIANCE * BEFORE THE
9043 Millers Island Boulevard (Lot #324), * ZONING COMMISSIONER
S/S Millers Island Avenue, 165' +/- E of *
c/l 8th Street, 15th Election District, * OF BALTIMORE COUNTY
7th Councilmanic *
Gerald W. and Shelley A. Ruth * CASE NO. 95-382-A
Petitioners *
* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to Gerald W. and Shelley A. Ruth, 8812 Hinton Avenue, Baltimore, MD 21219, Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

Property address: 9043 Millers Island Blvd.
Subdivision name: Swan Point
plat book: W.H.M. No. 9 folio: 76

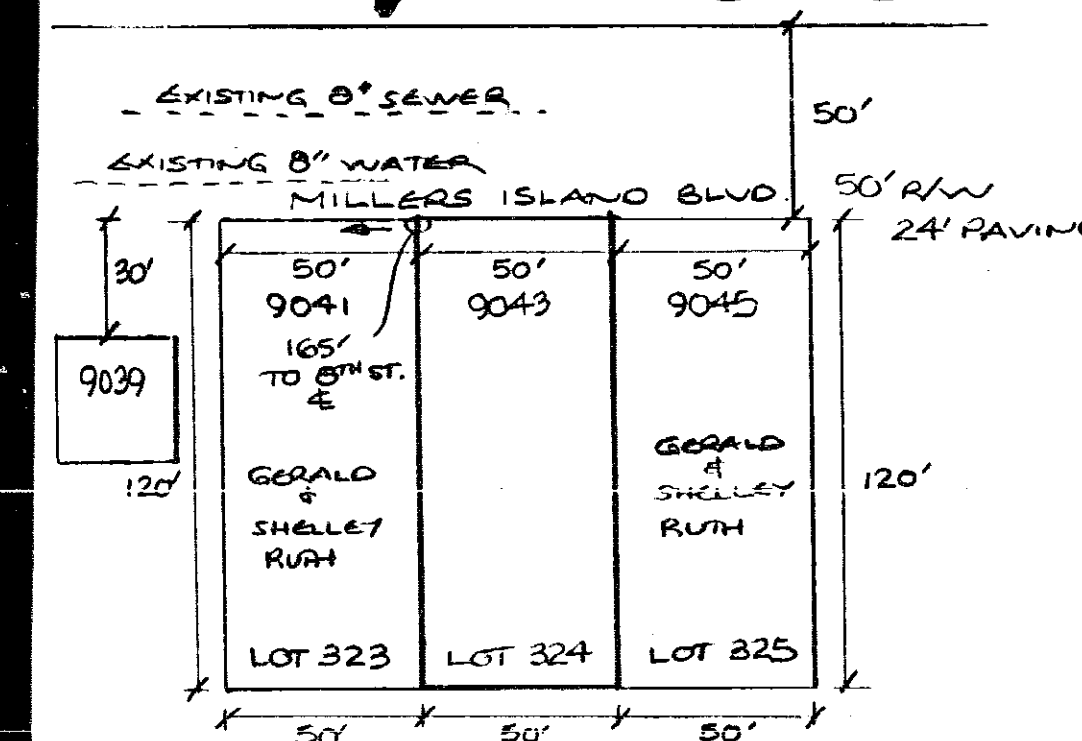
Owner: Mr. and Mrs. Gerald Ruth
Date: April 21, 1995
Scale: 1"=20'

Zoning Office Use ONLY!		
reviewed by	item #	case #

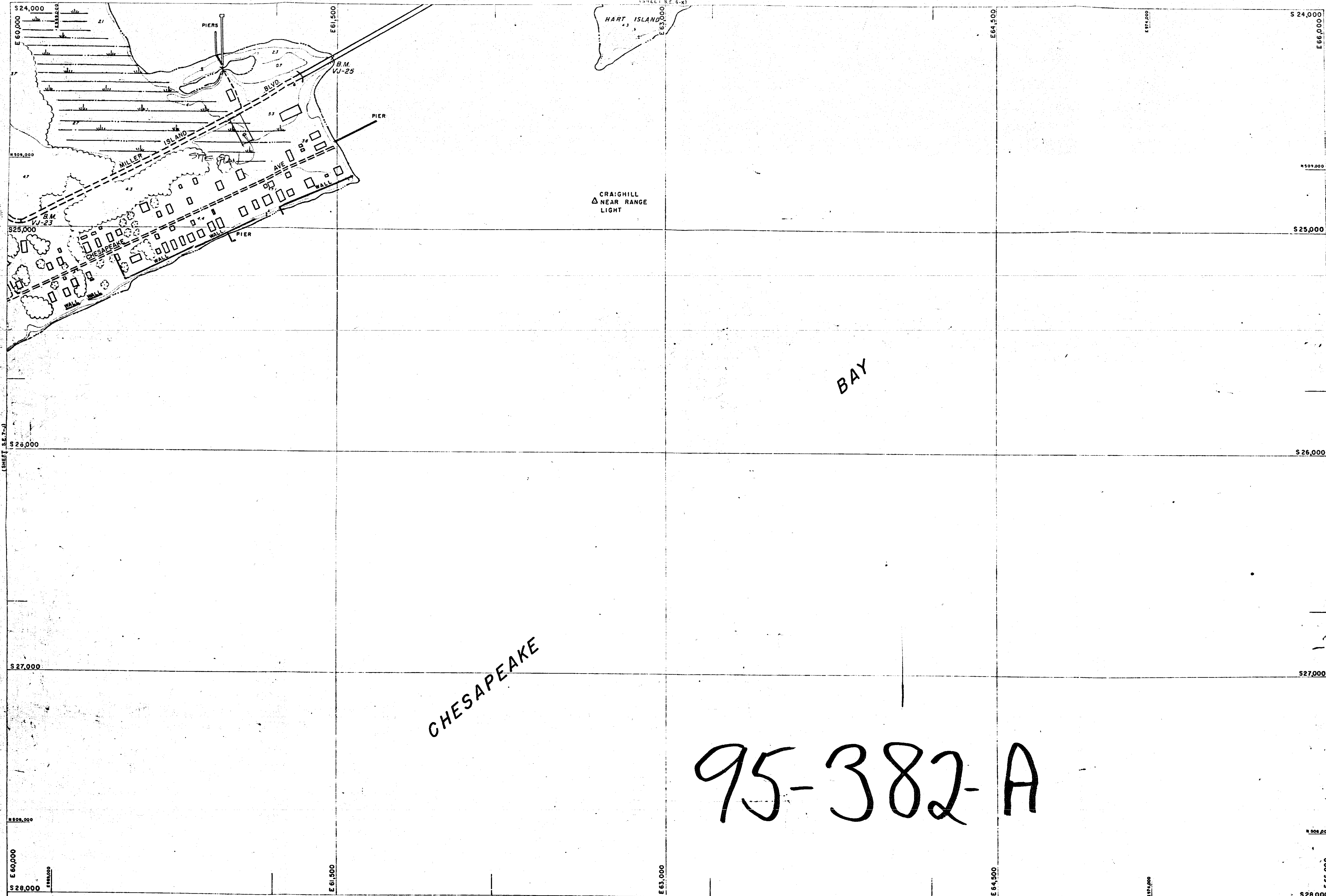
Location Information

Councilmatic District: 7 Lot size: 6000 sq. ft./ .138 acres
Election District: 15 Public sewer and water exists
1"=200' scale map: DE 7-K Lot lies in Chesapeake Bay Critical Area
Zoning: DR. 5.5 No prior zoning hearings

95-382-A



1761-377



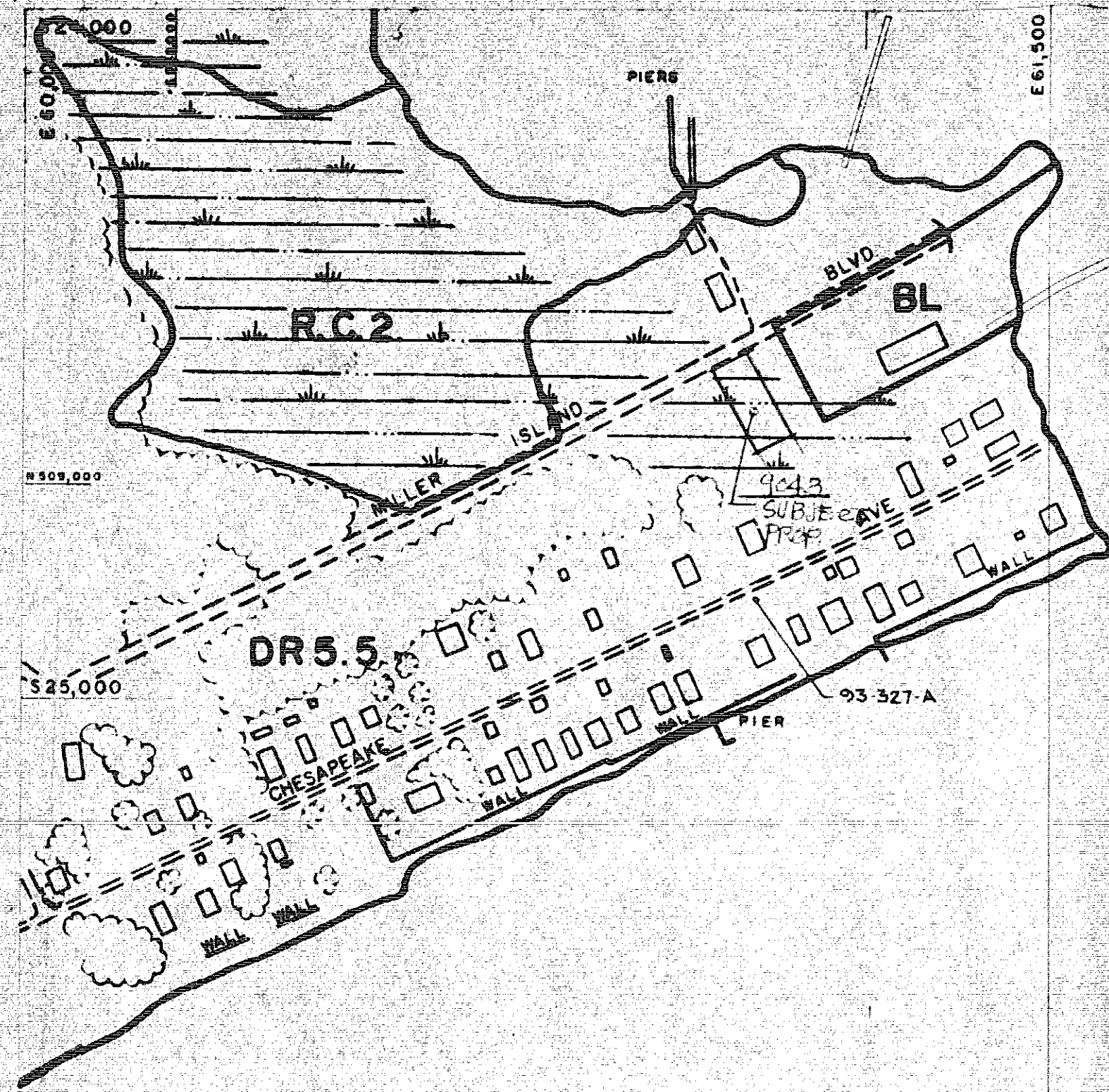
95-382-A

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE 1" = 200'	LOCATION HART ISLAND ITEM # 377	SHEET S.E. 7-K
BY	DATE			
		DATE OF PHOTOGRAPHY DEC. 1954		

Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP. LANSING MICH.

MICROFILMED



CRAIGHILL
NEAR RANGE
LIGHT

BAY

95-382-A

CHESAPEAKE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

Map Nos. 123-22, 224-22, 225-22, 226-22, 227-22, 228-22, 229-22

William R. Howard
Chairman, County Council

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
2001

LOCATION	SHEET
HART ISLAND	S.E. 7-K
ITEM 377	

A-NE AA-NW

THIS MAP HAS BEEN PREPARED BY THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. IT IS A PRELIMINARY MAP AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.